



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/044,739	01/11/2002	Leif Carlson	39035/236628	1560

826 7590 11/03/2006

ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

EXAMINER

ARAQUE JR, GERARDO

ART UNIT	PAPER NUMBER
----------	--------------

3629

DATE MAILED: 11/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/044,739

Applicant(s)

CARLSON ET AL.

Examiner

Gerardo Araque Jr.

Art Unit

3629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1 – 39 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. In regards to independent **claims 1, 17, and 26**, the applicant discloses, "...to at least **partially** remedy the facility incident...." The term "partially" renders the claims vague and indefinite. How much is partially? Is the applicant trying to remedy the incident so that it would not occur again or is the applicant trying to remedy the incident just enough so that it is not a major threat?

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

5. **Claims 17 – 25** are rejected under 35 U.S.C. 102(a) as being anticipated by Quick (US 2001/0056435).

6. In regards to **claim 17**, as best understood by the examiner, Quick discloses a computer network with a secure database connected to it. The system contains computers that interface with the network to input incident reports, view, and modify the

Art Unit: 3629

information in the secure database, if the proper security clearance has been issued to the person (Page 4 Column 1 Paragraph 67; Page 4 Column 2 Paragraph 72). For example, if a supervisor were to connect to the network with his/her password the supervisor would have the proper security clearance to review post-incident reports or review and assign incidents as they are received. If a personnel who was assigned a case were to log on with his/her password the personnel would only have a lower security clearance than that of the supervisor and would most likely only be able to upload reports and only view incidents that were assigned to them. The same would hold true for the person classifying the incident. Moreover, it is inherent that since all the information is being stored electronically within the secure database all of the communication would be done electronically in order to better distribute the information to the emergency response personnel (Page 5 Column 2 Paragraph 78; Page 6 Column 2 Paragraph 86).

7. In regards to **claim 18 – 19**, Quick discloses a secure database system that requires a password to log on dependant on the personnel's security level clearance (Page 4 Column 1 Paragraph 67; Page 4 Column 2 Paragraph 72). Moreover, it is inherent that the database must have some list designating a password to personnel in order for the database to compare the inputted log in password with that of the list so that the appropriate information is displayed to the personnel, which is dependant on the personnel's security clearance.

8. In regards to **claim 20**, as best understood by the examiner, Quick discloses a network with a Wide Area Network (WAN) that the businesses use to upload reports to

Art Unit: 3629

the system or to report an incident (Page 4 Column 1 Paragraph 67), a Local Area Network (LAN) and intranet that the emergency personnel use to access information on the secure database, review post/pre-incident reports, and to communicate with during an incident (Page 6 Column 2 Paragraph 86).

9. In regards to **claim 21**, Quick discloses that business or facilities may enter information into the secure database using a personal computer (Page 4 Column 1 Paragraph 67).

10. In regards to **claim 22**, Quick discloses that the notification generator in the disclosed system may begin at a stationary computer, which would then dispatch the information of the incident once it is received. It is old and well known in the art that an effective way of distributing information using a computer is through electronic mail (e-mail) and because the stationary computer has some type of modem connection it makes it possible to send e-mails to the appropriate personnel (Page 5 Column 2 Paragraph 78).

11. In regards to **claim 23**, as best understood by the examiner, it is inherent that when the supervisor reviews the case and assigns it to the emergency personnel that a due date can be assigned to the case, if the supervisor chooses to. Moreover, once the supervisor assigns the due date he/she can input the due date into the database so that the notification generator can forward/attach the due date with the e-mail that would be sent to the personnel that would be handling the incident.

12. In regard to **claims 24 - 25**, as best understood by the examiner, the personal computers in the system as disclosed by Quick inherently have a processing element

Art Unit: 3629

(CPU), which receives and processes information and requests to be accessed by the emergency personnel (Page 5 Column 2 Paragraph 78). Moreover, it is inherent that the information that is received from the incident location must contain an incident number (so that it can be accessed later), a keyword (to make it more effective to access the report within the category it was assigned to in the case that the incident number is not readily available), the status of the report (in the case that if the supervisor were to receive a notification on why the report has not been uploaded to the system yet), the originator of the incident report and location of the incident (so that the emergency personnel know where to go to handle the incident), a facility system (so that the emergency personnel can bring up a floor plan and pertinent information related to the location of the incident), and date of the incident (so that when the emergency personnel update the prior information that may already be contained in the secure database the emergency personnel can make note that the information being inputted is the most recent information to date).

Claim Rejections - 35 USC § 103

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. **Claims 1 – 16 and 26 – 39** are rejected under 35 U.S.C. 103(a) as being unpatentable over Quick (US 2001/0056435) in view of Berra (US Patent 5,414,408).

Art Unit: 3629

15. In regard to **claims 1 and 26**, Quick discloses a, "...system, method and apparatus of the present invention enables the collection, management and dissemination of information needed by emergency response personnel to the emergency response personnel at the time when it is most needed—between the receipt of a call for help and the arrival at the scene of the emergency (Page 2 Column 1 Paragraph 31)." The system allows the personnel to ready themselves appropriately by providing them with pertinent information in order to set up and bring the appropriate equipment to the incident location (Page 2 Column 2 Paragraphs 43 – 47).

Furthermore, the system contains a secure database that contains pre-determined categories that are designed to fall in line with those categories that are often found in government reports (Tier I & II reports, Risk Management Plans, Business Plans for a HAZMAT incident response) and various databases relating to environmental incidents and standards on how to deal with environmental incidents (such as MSDS database, CAMEO database, and the Center for Disease Control Immediately Dangerous to Life or Health database).

Once the information regarding the incident report has been properly identified the appropriate personnel are then notified and sent out to handle the incident (Page 3 Column 1 Paragraph 49). Moreover, when the incident has been completed the information gathered from the incident is added to the current information that is stored within the secure database of the system as disclosed by Quick, which is required by governmental personnel (Page 6 Column 1 Paragraph 83). Furthermore, the system as

Art Unit: 3629

disclosed by Quick is computer based and would, therefore, inherently send any correspondences electronically.

However, although it would be obvious that a supervisory authority is present for such situations; Quick fails to explicitly state a supervisory authority that is handling the dissemination of the report once it has been received.

Regarding a supervisory authority being present, Berra teaches an emergency action plan display that assists personnel on the proper actions to take regarding an incident. Berra discloses, "Action step block 116 tells the offshore personnel to notify the offshore supervisor (Column 10 Lines 66 – 68)." Once the information has been received the offshore supervisor would review the incident and assign the incident of the spill information to the oil response coordinator (Column 11 Lines 15 – 17). Moreover, once the situation has been dealt with it is obvious that the oil response coordinator would report back to the offshore supervisor and write a report regarding the incident.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to include an emergency action plan, as disclosed by Berra, in the system, as disclosed by Quick, so that proper procedure would be always be followed when an incident is reported.

16. In regard to **claims 2 – 4 and 27 – 28**, it is obvious that if a supervisor were to receive a notification that requires their attention, such as an emergency situation, that they would review it and send it to the appropriate personnel. It is an old and well-known business practice used in major businesses. The system as disclosed by Quick discloses that once an incident report has been submitted it must be looked over in

Art Unit: 3629

order to find out where the incident would fall within the appropriate categories in the secure database (Page 3 Column 2 Paragraph 64 Lines 16 – 26), i.e. if it is a criminal incident then the case would be sent to the police department if it was a chemical incident it would be sent to a facility that deals with chemical spills. The system as disclosed by Quick in combination with the emergency action plan as disclosed by Berra would ensure that this would be done in an efficient matter, as was previously discussed. In other words, if it were a criminal incident it would be sent the supervisory authority at a police department at which point the supervisory authority would review the case, notify the personnel in the appropriate department, such as homicide, at which point the personnel who was contacted in homicide would further classify the case by appropriately assigning the case to an officer with the appropriate experience related to the case.

17. In regard to **claims 5, 7, 29, and 31**, Quick discloses a secure database that stores information related to different incidents and plans for approaching the incident (Page 3 Column 1 Paragraphs 52 – 53).

18. In regard to **claims 6 and 30**, Quick discloses that the secure database is password protected and is only accessed by the emergency personnel (Page 5 Column 2 Paragraph 80).

19. In regard to **claims 8 and 32**, Quick discloses that the post-incident and pre-incident reports are stored on the secure database for later review and for pre-planning of an incident, as is often required by government personnel (Page 8 Column 1 Paragraph 83). Moreover, Quick discloses that the password for the log on to the

Art Unit: 3629

secure database is also dependant on the security level of the user (Page 4 Column 2 Paragraph 72). In other words, a supervisory authority would have a higher security level than the designated personnel that would be dealing with the incident, as a result the system must inherently store the information regarding the designated personnel and the corrective action that was assigned to the designated personnel.

20. In regard to **claims 9 and 33**, it is inherent that once the designated personnel has received a notification of an incident that they would work on the action. If there were no notification received by designated personnel then the designated would not know of the action and complete the action.

21. In regard to **claims 10 – 12, 15 – 16, 34 – 36, and 38 – 39**, it is obvious and common business practice that once an employee has completed an assignment that was assigned by their supervisor the employee must report back on its completion. Moreover, the supervisor must also receive the notification of completion in order to review and decide if the employee finished the job in a timely and correct manner. Furthermore, after reviewing the report the supervisor must also make a decision and determine if an adequate job was performed during the completion of the incident.

It is also old and well known that due dates are assigned to projects in order to determine that the project was done in a timely manner or to make sure that the project can continue onto the next phase, if a next phase is needed. Moreover, it is old and well known that notifications are given out informing the employee that the project's due date is coming up or has passed. If the notifications are being sent out by someone other than the supervisor it is old and well known that the supervisor would also receive

a notification to either inform that the employee is lagging behind on the project or to inform the supervisor that the client, if a client is involved, is asking why the project has taken longer than promised. A supervisor needs such information when it comes to an employee's review, such as an end of the year review for a promotion.

For example, if a mechanical engineering supervisor were to assign a major project to his/her department to analyze if a power plant upgrade were possible on an existing power plant then the supervisor must be certain that the analysis was done thoroughly before handing the analysis in to the contractors in charge of the construction for the upgrade. If the supervisor were to determine that an inadequate job was done after receiving the completed analysis report, he/she would send it back to the engineers in the department to have the analysis redone or to another set of engineers within the same department.

22. In regard to **claims 13 – 14 and 37**, Quick discloses that when the incident is received it must first be classified as to where the incident belongs, i.e. fire, criminal, etc. After the incident has been properly classified it would be further classified based on the circumstances of the incident. For example, Quick discloses that if the incident dealt with chemicals the incident would be classified based on the type of chemicals involved which could be compared with the information that is found within the secured database. The information that is found on the secured database would follow government standards, such as MSDS, in order to properly approach the incident.

Response to Arguments

23. Applicant's arguments filed 8/21/2006 have been fully considered but they are not persuasive.

24. In regards to the rejections made under 35 USC § 112, all rejections have been withdrawn.

25. A new 35 USC § 112 rejection has been made necessitated by the amendments made by the applicant.

26. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

27. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the references

were combined using the knowledge generally available to one of ordinary skill in the art. Quick and Berra are both in the same field of endeavor and are deemed analogous.

It would have, therefore, been obvious to one having ordinary skill in the art to look upon Berra as a teaching to Quick regarding the roles performed. Moreover, the examiner had made note that supervisory personnel are notified during emergency situations and discloses that Berra further defines such actions. It is old and well known that when emergency situations occur a supervisory authority is always notified and that proper actions are taken following incident. Even still, the applicant does not state in which order the method is to be carried out. Yet the examiner would also like to point out that emergency personnel are either a.) assigned during an emergency or b.) have already been assigned ahead of time in order to attend to the situation as quickly as possible and having the supervisory authority informed of the situation during or after the incident. Both scenarios are old and well known.

In regards to the arguments made towards the classification, the examiner has addressed these issues above. Moreover, the examiner would also like to note that the databases discussed above inherently contain possible incidents/scenarios and the proper action to be carried out in response to those incidents. Such databases would inherently fall under the action plan as disclosed by Berra and include some type of classification. The examiner disagrees with the argument that the corrective action and designated personnel are not defined by the supervisory authority. When the corrective action is initially laid out, it is a supervisory authority that decides how these actions are

Art Unit: 3629

carried out and by what type of personnel should be designated, i.e. chemical personnel, fire personnel, etc. Moreover, it is the decision of another supervisory authority to review the incident report and determine what personnel would be most appropriate in view of what would be disclosed in a corrective action. If there were to be a chemical spill and the corrective actions informs the supervisory authority that chemical personnel is the appropriate choice, the supervisory authority could disagree. For example, if a chemical spill were to occur and the supervisory authority has knowledge that the location of the spill could be exposed in such a way to start up a fire or explosion, it would be obvious that the supervisory authority would send another team of personnel to deal with the fire and work in conjunction with the chemical personnel.

In regards to independent claims 17 and 26, applicant made no arguments based on the fact that claims 17 and 26 "include comparable recitations to those described above in conjunction with independent Claim 1 with respect to the receipt of a classification of the incident that defines reporting requirements relating to the incident and the assignment of a corrective action and the designation of personnel to complete the corrective action by a supervisor." Therefore, the examiner directs the arguments for claims 17 and 26 to the arguments made for claim 1 above. Moreover, all rejections made towards the dependent claims are maintained due to the lack of a reply by the applicant in regards to distinctly and specifically point out the supposed errors in the examiner's action in the prior Office Action (37 CFR 1.111).

Conclusion

28. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

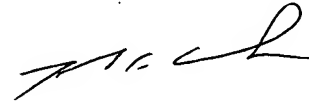
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gerardo Araque Jr. whose telephone number is (571)272-3747. The examiner can normally be reached on Monday - Friday 8:30AM - 4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3629

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

GA
10/27/06



JOHN G. WEISS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600